

25.09.2025
Court No.23
Item No.5
pk

WPA 12696 of 2025

**Rahamat Mallick and another
Vs.
The State of West Bengal and others**

Mr. Sanjib Seth
... for the petitioner.

Mr. Swapan Kumar Dutta, Sr. Adv
Mr. Rajat Dutta
... for the State.

Mr. Kumar Jyoti Tewari,
Mr. Tirthapati Acharyya
... for the Passport Authority/UOI.

1. This instant writ petition has been filed by the writ petitioners seeking direction upon the respondent no. 4 to issue passports in favour of the petitioners on the basis of the applications made by the petitioners, being Application No. CA 2066577875524 and CA 2066577892724.
2. It is the specific case of the petitioners that, in spite of directions passed by the Trial Court in a proceeding, being G. R. Case No. 1850 of 2017 arising out of Bagnan P.S. Case No. 377 of 2017 dated 05.07.2017 under Sections 147, 148, 149, 323, 427, 325, 506, 353 of the Indian Penal Code and Sections 3/4 of the E.S. Act, the respondent authorities are not issuing passports in favour of the writ petitioners.
3. On the other hand, the learned counsel appearing on behalf of the respondent no. 4 submits that there is a specific

notification issued by ministry of external affairs with regard to issue of passport when criminal cases pending against the person, who has applied for passport. There is certain condition to be fulfilled by the person , who applied for pass port, where the criminal case is sub judice. He also referred the Notification, which is set out below:

“In exercise of the powers conferred by clause (a) of Section 22 of the Passports Act, 1967 (15 of 1967) and in supersession of the notification of the Government of India in the Ministry of External Affairs No. G.S.R. 298(E), dated the 14th April, 1976, the Central Government, being of the opinion that it is necessary in public interest to do so, hereby exempts citizens of India against whom proceedings in respect of an offence alleged to have been committed by them are pending before a criminal court in India and who produce orders from the court concerned permitting them to depart from India, from the operation of the provisions of clause (f) of sub-section (2) of Section 6 of the said Act, subject to the following conditions, namely:-

(a) the passport to be issued to every such citizen shall be issued-

(i) for the period specified in order of the court referred to above, if the court specified a period for which the passport has to be issued; or

(ii) if no period either for the issue of the passport or for the travel abroad is specified in such order, the passport shall be issued for a period of one year,

(iii) if such order gives permission to travel abroad for a period less than one year, but does not specify the period of validity of the passport, the passport shall be issued for one year, or

(iv) if such order gives permission to travel abroad for a period exceeding one year, and does not specify the validity of the passport, then the passport shall be issued for the period of travel abroad specified in the order.

(b) any passport issued in terms of (a)(ii) and (a)(iii) above can be further renewed for one year at a time,

provided the applicant has not travelled abroad for the period sanctioned by the court; and provided further that, in the meantime, the order of the court is not cancelled or modified;

(c) any passport issued in terms of (a)(i) above can be further renewed only on the basis of a fresh court order specifying a further period of validity of the passport or specifying a period for travel abroad;

(d) the said citizen shall give an undertaking in writing to the passport-issuing authority that he shall, if required by the court concerned, appear before it at any time during the continuance in force of the passport so issued.”

4. The learned Trial Court allowed and passed an order to issue passport in favour of the petitioners, and thereafter, the Trial Court would decide upon filing an application with regard to the travel plan of the petitioners. Though the Trial Court should have passed the order before issuing such an order with regard to the travel plan of the accused persons.
5. In the back drop of the above, this writ petition being **WPA No. 12696 of 2025** is disposed of with a liberty to the petitioners to file afresh application before the trial court for fresh order disclosing the travel plan specifying a period for travel abroad of the petitioners as well as for the purpose of obtaining permission in the terms of aforesaid Notification for necessary order, so that they can get passport from the passport authority.
6. The trial court is hereby directed to disposed the application, if filed by the petitioners, considering the gravity of offence, their role and also in the light of the order passed by the Hon’ble High Court vide order dated

28.03.2024 in W.P.No. WPA No. 4772 of 2024 at the earliest in accordance with law.

7. Since no affidavit has been used by the respondents, the allegations made in the writ petition shall not be deemed to have been admitted by any of the respondents.
8. There shall be no order as to costs.
9. All parties shall act on the server copy of this order duly downloaded from the official website of this Court.

(Ajay Kumar Gupta, J.)